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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/436,506	11/09/1999	THOMAS WILLIAM BISH	TU9-99-036	6740

24033 7590 03/01/2002

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EXAMINER

ALI, MOHAMMAD

ART UNIT PAPER NUMBER

2177

DATE MAILED: 03/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/436,506

Applicant(s)

BISH ET AL.

Examiner

Mohammad Ali

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 1999.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

If this application currently names joint inventors, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary in considering patentability of the claims under 35 U.S.C. § 103. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

2. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,272,605 B1 issued to Le et al. ("Le") in view of US Patent 5,251,308 issued to Steven J. Frank et al. ("Frank")
3. Le renders obvious independent claim 1 by the following:

"..., flag for each storage device indicating whether a previous access,..." at col. 2 lines 60 to col. 3 lines 28;

"...., storage device having the flag indicating that no previous access attempt failed,..." at col. 6 lines 20-37, col. 8 lines 46-60, Abstract;

"accessing the data set,..." at col. 4 lines 67 to col. 5 lines 17.

Le does not explicitly teach the selection when storing the device, But Frank does teach the selection in storing device in multiprocessing systems with distributed hierarchical memory architecture at col. 3 lines 2-27, col. 10 lines 55-67.

Thus it would have been obvious to one ordinarily skilled in the art at time on the invention was made to add the "selection" from the storing device in multiprocessing systems with distributed

hierarchical memory architecture of Frank to handling multiple overlapping access requests to a storage device from multiple host systems of Le in order to have means of performing selection from the storing device (col. 3 lines 2-27, col. 10 lines 55-67, Frank).

4. Claims 10 and 19 have same subject matter as of claim 1 and essentially rejected for the same reasons.
5. As per claims, 2, 11, and 20, "... , access one of the first and second storage devices,..." at col. 6 lines 1-13.
6. As per claim 3, 12, and 21, "... ,data set on both first and second storage devices,..." at col. 4 lines 6-39.
7. As per claims 4, 13, 22, "... , flag is maintained for each data set,..." at col. 2 lines 60-67.
8. As per claims 5, 14, 23, "accessing the data set from one of a third and fourth storage devices,..." col. 4 lines 66 to col. 5 lines 17;  
"... , data set from the first storage device,..." at col. 4 lines 6 to col. 5 lines 17;  
"... , data set from the second storage device,..." at col. 4 lines 6 to col. 5 lines 17.
9. As per claims 6, 15, and 24, "... , data set to third storage device,..." at col. 5 lines 2-42;  
"... , access the data set,..." at col. 5 lines 48-61;  
"... , data set from the third storage device,..." at 4 lines 6 to col. 5 lines 17.
10. As per claims 7, 16, and 25 same as claims arguments above and, "... , first and second storage devices,..." at col. 2 lines 60 to col. 3 lines 27.
11. As per claims 8, 17, and 26 same as claims arguments above and, "... , data set in both the third and fourth storage devices,..." at col. 2 lines 60 to col. 3 lines 27.
12. As per claims 9, 18, and 27 same as claims arguments above and, "... , storage devices from which to access the data set,..." at col. 4 lines 6 to col. 5 lines 17.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (703) 605-4356. The examiner can normally be reached on Monday to Thursday from 7:30am-6:00pm.

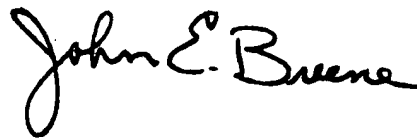
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

Mohammad Ali  
Patent Examiner  
February 12, 2002

A handwritten signature in black ink that reads "John E. Breene". The signature is written in a cursive style with a large, looped "J" and a distinct "E".

JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100